

**SEVENTH AMENDMENT TO
LINE OF CREDIT AGREEMENT
BETWEEN
THE CITY OF SAN JOSE
AND
ACROSS THE BRIDGE FOUNDATION, INC.**

This SEVENTH AMENDMENT to the Line of Credit Agreement Between the City of San José and Across the Bridge Foundation, Inc. (the "Seventh Amendment") is entered into this ____ day of _____, 2013, by the City of San Jose ("City"), a municipal corporation, and Across the Bridge Foundation, Inc., a California nonprofit corporation doing business as San Jose Downtown College Preparatory Charter High School ("Borrower").

RECITALS

- A. On November 21, 2000, City and Borrower entered into an agreement entitled "Line of Credit Agreement Between the City of San Jose and Across the Bridge Foundation, Inc." ("Agreement") under which City agreed to make revolving loans as defined in the Agreement ("Revolving Loans") to Borrower. Concurrent with the execution of the Agreement, Borrower also executed a promissory note in the amount of \$150,000 (the "Original Revolving Loan Note"), which was the full amount of City's commitment under the Agreement to make Revolving Loans.
- B. On November 13, 2001, City and Borrower entered into a First Amendment to the Agreement under which City agreed to increase its commitment to make Revolving Loans to Borrower from \$150,000 to \$300,000.
- C. On September 17, 2002, City and Borrower entered into a Second Amendment to the Agreement under which City agreed to increase its commitment to make Revolving Loans to Borrower from \$300,000 to \$450,000.
- D. On November 5, 2003, City and Borrower entered into a Third Amendment to the Agreement under which City agreed to increase its commitment to make Revolving Loans to Borrower from \$450,000 to \$600,000.

E. On August 1, 2005, City and Borrower entered into a Fourth Amendment to the Agreement in order to retroactively extend the repayment schedule for the outstanding Revolving Loans which total \$600,000.

F. On April 5, 2007, City and Borrower entered into a Fifth Amendment to the Agreement in order to retroactively extend the repayment schedule by five years for the outstanding Revolving Loans which total \$600,000.

G. On January 19, 2012, City and Borrower entered into a Sixth Amendment to the Agreement in order to retroactively extend the repayment schedule by two years for the outstanding Revolving Loans which total \$600,000.

H. Concurrent with each of the amendments described above, Borrower also executed a promissory note to reflect the revisions to the Agreement.

I. City desires to further amend the Agreement to convert the repayment of the outstanding Revolving Loans, which total \$600,000, to a forgivable performance-based loan in exchange for Borrower's commitment to expand its Downtown College Preparatory Alum Rock campus ("Alum Rock Campus") over the next four years.

J. Unless otherwise defined herein, capitalized terms used herein shall have the meaning given them in the Agreement.

NOW, THEREFORE, City and Borrower hereby agree as follows:

1. Loan Forgiveness. Subject to the provisions set forth herein, the City will forgive the outstanding balance of the Revolving Loan Note dated as of June 30, 2011 in the amount of \$600,000, based on the schedule set forth in Section 3.E of the Agreement. There is no interest on the Revolving Loans.

2. Consideration for Forgiveness of Revolving Loans. As consideration for City's forgiveness of the outstanding balance of the Revolving Loan Note, Borrower shall expand the Alum Rock Campus, adding one grade level per school year up to the 12th grade.

3. Subsection D and Subsection E of Section 3 of the Agreement, "City's Loans to Borrower" are each amended to read as follows:

- "D. All Revolving Loans shall be evidenced by one promissory note of Borrower in substantially the form of the attached Seventh Revised Exhibit A (the "Revolving Loan Note") payable to City in a principal amount of City's Commitment and otherwise duly completed. All Revolving Loans made by City and all payments, prepayments and forgiveness made on account of the principal shall be recorded by City on the schedule (or continuation of the schedule) attached to the Revolving Loan Note. However, Borrower acknowledges and agrees that failure by City to make any such endorsement shall not affect the obligation of Borrower under this Agreement or under the Revolving Loan Note in respect to the unpaid balance of any Revolving Loan.
- E. Provided no Default or Event of Default has occurred and is then continuing, the entire principal amount of the Revolving Loans, which the parties acknowledge totals \$600,000, shall be forgiven no later than June 30, 2016. Forgiveness of the Revolving Loans shall be in accordance with the following schedule:

Date	Amount of Forgiveness	Performance Requirement
June 30, 2014	\$200,000	Successful expansion to 9 th grade
June 30, 2015	\$200,000	Successful expansion to 10 th grade
June 30, 2016	\$200,000	Successful expansion to 11 th grade

- F. Borrower will provide the City's Housing Department with a written annual progress report on June 1, 2014, 2015 and 2016, regarding the expansion of the Alum Rock campus.
- G. In the event of a Default by Borrower, as set forth in Section 5 of the Agreement, City may exercise its rights and remedies as specified in Section 6 of the Agreement."
4. Section 5 of the Agreement, "Borrower's Default" is amended to add paragraph I to read as follows:

- "I. The failure of Borrower to expand the School each year as required in Subsection E of Section 3 of the Agreement."

5. Promissory Note. Borrower shall execute a replacement Revolving Loan Note substantially in the form of the Seventh Revised Exhibit A. The parties agree that the schedule attached to the current Revolving Loan Note will be removed and attached to the replacement Revolving Loan Note. Upon execution of this Seventh Amendment and the replacement Revolving Loan Note, City will return to Borrower the prior Revolving Loan Note, except for the schedule.

6. All of the terms and conditions of the original Agreement as amended and not modified by this Seventh Amendment shall remain in full force and effect.

WITNESS THE EXECUTION HEREOF on the day and year first written above.

"City"

APPROVED AS TO FORM:

CITY OF SAN JOSE, a municipal
corporation

Patricia Deignan
Chief Deputy City Attorney

By _____
Toni J. Taber, CMC
Acting City Clerk

"Borrower"

ACROSS THE BRIDGE FOUNDATION,
INC., a California nonprofit corporation

By _____
Name: Jennifer Andaluz
Title: Executive Director

SEVENTH REVISED EXHIBIT A

PROMISSORY NOTE

(Across the Bridge Foundation, Inc.)

EXEMPLAR ONLY

\$600,000.00

DO NOT SIGN

San Jose, California
Dated as of _____, 2013

FOR VALUE RECEIVED, the undersigned, **ACROSS THE BRIDGE FOUNDATION, INC.**, a California nonprofit public benefit corporation ("Borrower") promises to pay to the order of the **CITY OF SAN JOSE**, a municipal corporation, (the "City"), the aggregate unpaid principal amount of all Revolving Loans made by the City from time to time pursuant to that certain Line of Credit Agreement, referred to below. City will forgive the unpaid principle balance of all Revolving Loans made by City subject to the provisions set forth in the Line of Credit Agreement on the dates and in the amounts and in the manner provided for in the Line of Credit Agreement.

In addition to this Note, the terms and conditions of the indebtedness evidenced by this Note are set forth in the Line of Credit Agreement by and between the City of San Jose and Borrower, as amended by the Seventh Amendment or any subsequent amendment (the "Agreement"). **Reference is made to Section 6 of the Agreement, entitled "Remedies for Default" with respect to rights of acceleration of the indebtedness evidenced by this Note.** Except where expressly stated otherwise, if there is any conflict between this Note, on the one hand, and the Agreement, on the other, the Agreement shall control.

1. Forgiveness of Revolving Loans. Provided that no Default or Event of Default has occurred and is then continuing, the unpaid principal of the Revolving Loans, which as of the date of this Note totals \$600,000.00, shall be forgiven by the City as set forth in Section 3 E. of the Agreement.

2. Borrower's Default. Any of the following shall constitute an Event of Default under the Agreement and this Note for which City may exercise its rights and remedies as specified in Section 6 of the Agreement, upon written notice to Borrower: Borrower's failure to expand the Alum Rock Campus as required under the Loan Documents within the time permitted and Borrower's failure to observe and perform any covenant, condition, or agreement as set forth in the Loan Documents.

3. Waiver by Borrower. Borrower, any endorser of this Note, and all others who may become liable for all or any part of the obligations evidenced by this Note hereby severally waive demand, presentment for payment, demand and protest, notice of protest, demand and of dishonor and non-payment and consent to any number of

renewals or extensions of time hereof. Any such renewals or extensions may be made without notice to any of said parties and without affecting their liability. The pleading of any statute of limitations as a defense to any demand against the Borrower is expressly waived by Borrower.

4. **Waiver by City.** Any failure of the City or other holder to exercise any rights hereunder shall not constitute a waiver of the rights to the later exercise thereof.

5. **Amendment.** This Note may not be changed, amended or modified orally.

6. **Governing Law.** This Note shall be governed by and construed in accordance with the laws of the State of California.

7. **Binding on Successors.** The terms of this Note shall apply to, inure to the benefit of, and bind all parties hereto, successors and assigns.

IN WITNESS WHEREOF, the Borrower has executed this Note as of the date first written above.

ACROSS THE BRIDGE FOUNDATION, INC., a California nonprofit corporation

By: _____

Its: _____

RD:PAD:CER
5/14/2013

TRANSACTIONS ON THE REVOLVING LOAN NOTE

[illegible]